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8 **BEFORE THE ARIZONA MEDICAL BOARD**

9 In the Matter of:

10 **RICHARD G. BOTTIGLIONE, M.D.**

11 Holder of License No. 14927
12 For the Practice of Medicine
In the State of Arizona,

13 Respondent.
14

No. MD-04-14927

**CONSENT AGREEMENT AND
ORDER FOR DECREE OF
CENSURE**

15 **CONSENT AGREEMENT**

16 **RECITALS**

17 In the interest of a prompt and judicious settlement of this case, consistent with the public
18 interest, statutory requirements and responsibilities of the Arizona Medical Board ("Board"), and
19 under A.R.S. §§ 32-1401 *et seq.*, and 41-1092.07(F)(5), Richard G. Bottiglione, M.D., holder of
20 license number 14927 to practice allopathic medicine in the State of Arizona ("Respondent"), and
21 the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
22 ("Consent Agreement") as the final disposition of this matter.

23 1. Respondent has read and understands this Consent Agreement as set forth herein, and
24 has had the opportunity to discuss this Consent Agreement with an attorney and has done so or
25 chooses not to do so. Respondent voluntarily enters into this Consent Agreement for the purpose
26

1 of avoiding the expense and uncertainty of an administrative hearing.

2 2. Respondent understands that he has a right to a public administrative hearing
3 concerning each allegation set forth in the above-captioned matter, at which administrative hearing
4 he could present evidence and cross-examine witnesses. By entering into this Consent Agreement,
5 Respondent freely and voluntarily relinquishes all rights to such an administrative hearing, as well
6 as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative
7 and/or judicial action, concerning the matters set forth herein.

8 3. Respondent agrees that the Board may adopt this Consent Agreement or any part of
9 this agreement, under A.R.S. § 32-1451(F). Respondent understands that this Consent Agreement
10 or any part of the agreement may be considered in any future disciplinary action against him.

11 4. Respondent understands this Consent Agreement deals with Board Investigations
12 Case No. MD-01-0772 involving allegations of unprofessional conduct against Respondent. The
13 investigation into these allegations against Respondent shall be concluded upon the Board's adoption
14 of this Consent Agreement.

15 5. Respondent understands that this Consent Agreement does not constitute a dismissal
16 or resolution of other matters currently pending before the Board, if any, and does not constitute any
17 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other
18 pending or future investigation, action or proceeding. Respondent also understands that acceptance
19 of this Consent Agreement does not preclude any other agency, subdivision or officer of this state
20 from instituting any other civil or criminal proceedings with respect to the conduct that is the subject
21 of this Consent Agreement.

22 6. Respondent acknowledges and agrees that, upon signing this Consent Agreement and
23 returning this document to the Board's Executive Director, Respondent may not revoke his
24 acceptance of the Consent Agreement or make any modifications to the document, regardless of
25 whether the Consent Agreement has been issued by the Executive Director. Any modification to this
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1 original document is ineffective and void unless mutually approved by the parties in writing.

2 7. Respondent understands that this Consent Agreement shall not become effective
3 unless and until adopted by the Board and signed by its Executive Director or designee.

4 8. Respondent understands and agrees that if the Board does not adopt this Consent
5 Agreement, he will not assert as a defense that the Board's consideration of this Consent Agreement
6 constitutes bias, prejudice, prejudgment or other similar defense.

7 9. Respondent understands that this Consent Agreement is a public record that may be
8 publicly disseminated as a formal action of the Board, and shall be reported as required by law to the
9 National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

10 10. Respondent understands that any violation of this Consent Agreement constitutes
11 unprofessional conduct under A.R.S. § 32-1401(26)(r)([v]iolating a formal order, probation, consent
12 agreement or stipulation issued or entered into by the board or its executive director under the
13 provisions of this chapter) and shall result in disciplinary action under A.R.S. § 32-1451 *et seq.*

14 11. If any part of the Consent Agreement is later declared void or otherwise
15 unenforceable, the remainder of the Order in its entirety shall remain in full force and effect.

16 12. The parties mutually understand and agree that this order constitutes a final, binding
17 decision of this matter under investigation by the Board and referenced above.

18
19 DATED: 5-5-04


Richard G. Bottiglione, M.D.

20
21 Reviewed and Approved as to form:

22
23 By: 

Charles Buri, Esq.
Attorney for Respondent

1
2 **FINDINGS OF FACT**

3 **Case No. MD-01-0772**

4 1. On October 31, 2001, the Board received a letter of complaint from **Patient**
5 **J.V.**, a female patient, concerning the care and treatment rendered by Respondent ("J.V.").
6 In her letter of complaint, J.V. alleged, among other things, that Respondent's treatment
7 caused excessively painful and unsightly scarring ("Complaint").

8 2. On or about November 21, 2001, after receiving the Complaint from J.V.
9 the Board initiated investigation MD-01-0772. Investigation MD-01-0772 established the
10 following facts and circumstances as described below.

11 3. As part of Investigation MD-01-0772, J.V. submitted to the Board seven (7)
12 close-range photographs of five (5) of the surgical wounds which resulted from the
13 procedures performed by Respondent.

14 4. On July 12, 2000, J.V. presented to Respondent for consideration of moles
15 on her forehead, body and extremities.

16 5. From July 19, 2000 through October 26, 2000, Respondent performed
17 approximately twenty-one (21) dermatological procedures on J.V., including, but not
18 limited to the following: (i) shaved biopsies on lesions appearing on J.V.'s left deltoid, right
19 breast, mid glabella and left eyebrow; (ii) Mohs surgery on J.V.'s right glabella; (iii) shaved
20 biopsies on lesions appearing on J.V.'s right scapula and right lip; (iv) Mohs surgery on
21 lesions appearing on J.V.'s right breast; (v) Mohs surgery on lesions appearing on J.V.'s
22 right scapula; (vi) Mohs surgery on lesions appearing on J.V.'s left lower arm and left upper
23 arm; (vii) Mohs surgery on lesions appearing on J.V.'s right shoulder area; (viii) Mohs
24 surgery on lesions appearing on J.V.'s left upper chest and right upper chest; (ix) Mohs
25 surgery on J.V.'s left lower back and right lower back; (x) Mohs surgery on J.V.'s left
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1 upper eyebrow and two (2) locations on J.V.'s back; and (xi) extraction of two (2) cysts
2 from J.V.'s nose.

3 6. In regards to many of these procedures Respondent fell below the standard
4 of care in that pursuant to Respondent's own medical records, including his "progress
5 notes," there is no indication regarding whether Respondent forwarded some of the tissue
6 specimens removed in these procedures to a pathology laboratory for malignancy tests.
7 Without an accurate pathologic interpretation, the physician's ability to appropriately
8 diagnose the malignancy and then proceed with the most appropriate form of treatment is
9 compromised. Further, the absence of consistent accurate pathologic interpretations may
10 have resulted in unnecessary surgical procedures on J.V. and may have been harmful or
11 dangerous to the patient's health.

12 7. In regards to many of these procedures, Respondent used inappropriate
13 surgical techniques such as transpositional flaps and rotational flaps, when in fact side-by-
14 side closure may have been satisfactory and was or may have been harmful or dangerous
15 to the patient's health.

16 8. In regards to many of these surgical procedures, Respondent failed to use
17 appropriate (in this instance, finer) gauge sutures to minimize scarring and disfigurement,
18 which was below the standard of care and was or may have been harmful or dangerous to
19 the patient's health.

20 **PREVIOUS BOARD ACTIONS AGAINST RESPONDENT**

21 When determining appropriate disciplinary action against a licensee, "the board
22 shall consider all previous nondisciplinary and disciplinary actions against a licensee."
23 A.R.S. § 32-1451(U). The Board has previously taken the following five (5) prior
24 actions against Respondent, as described in greater detail below.

9. On or about November 7, 2001, the Board imposed on Respondent a disciplinary Decree of Censure for “failure to verify license credentials of employee, allowing unlicensed employee to practice medicine in his office, and making false statements to the Board.”

10. On or about December 19, 2000, the Board imposed a disciplinary Letter of Reprimand with probation on Respondent for his “failing or refusing to maintain adequate records on a patient.”

11. On or about December 17, 1997, the Board issued a non-disciplinary Advisory Letter to Respondent for his “management, coding, and documentation of a skin lesion not otherwise specified, which resulted in scarring.”

12. On or about August 20, 2003, the Board issued a non-disciplinary Advisory Letter to Respondent for his “allowing a patient to apply her own Oxsoralen lotion.

13. On or about June 27, 1990, the Board issued a non-disciplinary Advisory Letter to Respondent for his failure to complete an “adequate history and physical examination of th[e] patient and coding for a more extensive examination and treatment than was actually provided.”

CONCLUSIONS OF LAW

14. The Board possesses jurisdiction over the subject matter hereof and over, Richard G. Bottiglion, M.D. ("Respondent"), holder of License No. 14927 for the practice of allopathic medicine in the State of Arizona.

15. The conduct and circumstances described above in this Complaint constitute unprofessional conduct pursuant to A.R.S. § 32-1401(26)(q) (“Any conduct or practice that is or might be harmful or dangerous to the health of the patient or the

public”) and §32-1401(26)(11) (“Conduct the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient”).

ORDER

Based upon the above Findings of Fact and Conclusions of Law and under the authority granted to the Board by A.R.S. §§ 41-1092.07(F)(5) and §§ 32-1451(I)(3),(4), **IT IS HEREBY ORDERED THAT:**

1. Respondent, holder of License No.14927 for the practice of allopathic medicine in the State of Arizona, is hereby issued a **DECREE OF CENSURE** for his unprofessional conduct as described above.

2. That **Richard G. Bottiglione, M.D.**, holder of license number **14927**, shall within one (1) year of the effective date of this Order obtain the following:

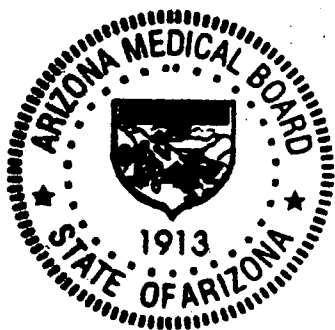
(i) **Thirty (30) hours** of Board staff pre-approved Continuing Medical Education (“CME”) in Wound Closure Techniques and provide to the Executive Director satisfactory proof of attendance; and

(ii) **Six (6) hours** of Board staff pre-approved CME in Pathology and provide to the Executive Director satisfactory proof of attendance. The CME hours described herein shall be *in addition* to the hours required for the biennial renewal of Respondent’s medical license.

DATED AND EFFECTIVE this 11th day of June, 2004.

ARIZONA MEDICAL BOARD

[SEAL]



By *Barry A. Cassidy*
BARRY A. CASSIDY, Ph.D., P.A.-C.
Executive Director

1 **Executed COPY** of the foregoing mailed by
2 U.S. Certified Mail this 11th day of
June, 2004 to:

3 Richard G. Bottiglione, M.D.
4 4045 East Bell Road
5 Suite #147
6 Phoenix, Arizona 85032-2239
7 Respondent

8 Executed **ORIGINAL** of the foregoing filed this
9 11th day of June, 2004, with:

10 Arizona Medical Board
11 9545 East Doubletree Ranch Road
12 Scottsdale, Arizona 85258

13 Executed **COPIES** of the foregoing mailed
14 this 11th day of June, 2004, to:

15 Charles Buri, Esq.
16 Friedl, Richter & Buri, P.A.
17 6909 East Greenway Parkway, Suite 101
18 Scottsdale, Arizona 85254-2149
19 Attorneys for Respondent

20 Ann-Marie Anderson, Esq.
21 Assistant Attorney General
22 1275 West Washington, CIV/LES
23 Phoenix, Arizona 85007
24 Attorneys for the State